

H. R. A. asks the Appeals Board of the Utah Labor Commission to review Administrative Law Judge Sessions' dismissal of Mr. A. claim for benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Annotated).

The Appeals Board exercises jurisdiction over this motion for review pursuant to Utah Code Ann. §63-46b-12 and Utah Code Ann. §34A-2-801(3).

### **BACKGROUND AND ISSUE PRESENTED**

On February 24, 2005, Mr. A. filed an application for hearing with the Commission to compel Aramark to pay workers' compensation benefits for an injury Mr. A. suffered while allegedly employed by Aramark at the Weber County Correctional Facility. Mr. A.'s claim was assigned to Judge Sessions for adjudication.

On March 17, 2005, Aramark submitted an answer to Mr. A.'s application in which it asserted that Mr. A. was an inmate in the correctional facility at the time of his injury and was not an employee of Aramark. It does not appear that Aramark provided a copy of its answer to Mr. A..

On March 30, 2005, Indemnity Insurance Co., Aramark's insurance carrier, filed its own answer and motion to dismiss, repeating the assertion that Mr. A. was an inmate at the correctional facility at the time of his injury. On that basis, Indemnity Insurance requested dismissal of Mr. A.'s application. Indemnity Insurance did provide a copy of its answer and motion to dismiss to Mr. A., but he did not respond.

On April 12, 2005, Judge Sessions granted Indemnity Insurance's motion to dismiss on following grounds:

On the face of the Application for Hearing, [Mr. A.] admits that the injury occurred while he was working in the Weber County Correctional Facility kitchen . . . . As such, he is without remedy in under (sic) the Workers Compensation system of Utah. The present state of the law does not permit recovery under the Workers Compensation Act as stated in Respondent's Answer & Motion to Dismiss.

Mr. A. now seeks review of Judge Sessions' order. Specifically, Mr. A. argues he was employed by Aramark and that his claim for workers' compensation benefits is not precluded by the various statutory provisions that limit payment of workers' compensation benefits to inmates.

### **DISCUSSION AND CONCLUSIONS OF LAW**

Pursuant to § 63-46b-1(4)(b) of the Utah Administrative Procedures Act, an ALJ may grant a motion to dismiss or a motion for summary judgment if the requirements of Utah Rules of Civil Procedure 12(b) or 56, respectively, are satisfied. Judge Sessions' order in this case does not state whether Mr. A.'s claim is dismissed pursuant to Rule 12(b) or Rule 56, nor is the substance of the order sufficient to support dismissal under either Rule 12b or Rule 56.

If, as appears most likely, Judge Sessions intended to rely on Rule 12(b) in dismissing Mr. A.'s application, Judge Sessions was obligated to accept as true the assertions of fact set out in Mr. A.'s application. Those assertions indicated Mr. A. was Aramark's employee, working at the correctional facility. If the assertions are true, Mr. A. might be entitled to benefits. Consequently, it would be improper to dismiss his application pursuant to Rule 12(b).

Alternatively, if Judge Sessions intended to enter summary judgment against Mr. A. pursuant to Rule 56, Judge Sessions would be required to make a determination that there was no dispute as to material facts and that Aramark was entitled to judgment as a matter of law. Judge Sessions did not undertake such an analysis in his decision.

Summary dismissal pursuant to Rule 12(b) or Rule 56 requires close attention to the factual and legal standards established by those rules. Because the requisite analysis was absent in the ALJ's decision in this case, the Appeals Board remands this matter to the Adjudication Division. If, on remand, the ALJ concludes that dismissal of Mr. A.'s application is appropriate, the ALJ shall issue a new decision setting out the legal and factual basis for dismissal. Alternatively, if summary disposition is not appropriate, the ALJ may proceed with an evidentiary hearing.

### **ORDER**

The Appeals Board remands this proceeding to the Adjudication Division for further proceedings consistent with this decision.

Dated this 25<sup>TH</sup> day of August, 2005.

Colleen S. Colton, Chair  
Patricia S. Drawe  
Joseph E. Hatch